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April 27, 2021

VIA ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
40 Centre Street, Room 2202
New York, New York 10007

Re: *Accent Delight International Ltd. et al v. Sotheby's et al*, 18-cv-9011

Dear Judge Furman:

We write respectfully on behalf of Defendants Sotheby's and Sotheby's, Inc. (collectively, "Sotheby's") in connection with Sotheby's upcoming motion for summary judgment and opposition to Plaintiffs' Motion for Partial Summary Judgment (ECF No. 413), which is due tomorrow, April 28. Specifically, we write to request the Court's permission to file the official transcript of the deposition of Yves Bouvier, in support of Sotheby's motion and in opposition to Plaintiffs' motion, after April 28.

Sotheby's papers will rely, in part, on excerpts of testimony given by Mr. Bouvier at his January 25-26 deposition in Switzerland. We anticipated being able to attach those excerpt as exhibits to tomorrow's filing, based on the Swiss Court's indication to Sotheby's Swiss counsel that it would issue an order on April 25 or 26 addressing two remaining disputes between the parties in order to finalize the official transcript. We learned today that the Swiss Court addressed only one of those disputes and has not finalized the transcript, but has instead issued an Order seeking clarification from this Court as to how to resolve the final dispute.¹

We further understand from Sotheby's Swiss counsel that the non-final deposition transcript, which Plaintiffs and Sotheby's have in their possession, cannot be filed in connection with the instant motions, because such filing is barred by the Swiss blocking

¹ The last remaining dispute is whether to reflect in the official written transcript Mr. Bouvier's side conversations with counsel at the deposition. That issue is not pertinent to the use of excerpts of Mr. Bouvier's testimony in connection with Plaintiffs' or Sotheby's motions.

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statute. Indeed, in support of their motion for partial summary judgment, which referenced Mr. Bouvier's testimony at his Swiss deposition, Plaintiffs only paraphrased Mr. Bouvier's testimony in a lawyer's declaration and did not attach the deposition transcript, referencing that they could not do so until the transcript is finalized by the Swiss Court. *See* ECF No. 417 ¶ 5.

In light of the above, we respectfully request that Sotheby's be permitted in its upcoming summary judgment papers to paraphrase Mr. Bouvier's excerpted testimony in a manner that is consistent with Swiss law, and then be permitted to file the applicable excerpts of Mr. Bouvier's deposition testimony in a supplemental filing once the official deposition transcript becomes available, following Your Honor's ruling as requested by the Swiss Court.

We thank the Court for its consideration of this request.

Respectfully,

/s/ Sara L. Shudofsky
Sara L. Shudofsky

cc: All counsel of record (via ECF)

Application GRANTED. If the transcript is not filed by **May 12, 2022**, Sotheby's shall file a letter updating the Court on the status of the Swiss Court's approval. The Clerk of Court is directed to terminate ECF No. 432.

SO ORDERED.



April 28, 2022